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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,279	02/02/2000	George c. Carter	00P7437US	7302

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Siemens Coporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

NAJJAR, SALEH

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/497,279

Applicant(s)

CARTER, GEORGE E.

Examiner

Saleh Najjar

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-21 and 24-27 is/are rejected.
- 7) ☒ Claim(s) 11, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. This action is responsive to the RCE filed on May 3, 2004. Claims 1, and 24 were amended. Claims 1-27 are pending. Claims 1-27 represent method apparatus and program for background processing *deferment for computer telephony*.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-10, 12-21, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen et al., U.S. Patent No. 6,360,336 (referred to hereafter as Chris).

Chris teaches the invention substantially as claimed including a computer diagnosis and maintenance program that is activated/deactivated responsive to computer idle status (see abstract).

As to claim 1, Chris teaches a teaches a computer implemented method of processing a computer application, comprising:

Deferring execution of at least one background process, the background process being a process that is not under immediate interactive control of the a user; and processing a computer application (see figs. 1-2, col. 2, lines 10-60, Chris discloses a combined screen saver / diagnosis and maintenance program that is deferred to return control to a user application upon detection of user activity).

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Chris does not explicitly teach the limitation of a telephony application.

However, "Official Notice" is taken that the concept and advantages of using a telephony application is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chris by specifying a telephony application since Chris discloses a video card and peripheral devices which would facilitate conferencing or telephone applications.

As to claim 2, Chris teaches the method of claim 1, wherein deferring execution of at least one background process is performed when a computer application is executed (see col. 2, lines 50-55, Chris discloses that upon detection of activity at the computer background processes are deferred).

Chris does not explicitly teach the limitation of a telephony application.

However, "Official Notice" is taken that the concept and advantages of using a telephony application is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chris by specifying a telephony application since Chris discloses a video card and peripheral devices which would facilitate conferencing or telephone applications.

As to claim 3, Chris teaches the method of claim 1, wherein deferring execution of at least one background process is performed before making or receiving a computer communication (see col. 2, lines 15-45, Chris discloses that upon detection of user activity, background processes/maintenance programs are deferred from execution).

Chris does not explicitly teach the limitation of a telephony application.

However, "Official Notice" is taken that the concept and advantages of using a telephony application is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chris by specifying a telephony application since Chris discloses a video card and peripheral devices which would facilitate conferencing or telephone applications.

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As to claim 4, Chris teaches the method of claim 1, wherein deferring execution of at least one background process is performed during the computer application interface (see col. 2, lines 15-45, Chris discloses that upon detection of user activity, background processes/maintenance programs are deferred from execution).

Chris does not explicitly teach the limitation of a telephony application.

However, "Official Notice" is taken that the concept and advantages of using a telephony application is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chris by specifying a telephony application since Chris discloses a video card and peripheral devices which would facilitate conferencing or telephone applications.

As to claim 5, Chris teaches the method of claim 1, wherein deferring execution of at least one background process includes accessing an inhibit list that lists background processes; and deferring execution of the at least one background process on the inhibit list which includes information regarding deferring execution of each background process on the inhibit list (see col. 1-2, Chris discloses that a number of diagnosis and maintenance programs are run as part of a screen saver program on a client, the programs include critical and non-critical programs, non-critical programs are inhibited instantly when the screen saver is deactivated).

As to claim 7, Chris teaches the method of claim 1, further comprising enabling execution of at least one background process if there have not been any computer application activity for a predetermined time (see col. 2, lines 15-45, Chris discloses that upon detection of user activity, background processes/maintenance programs are deferred from execution).

Claims 8-10, 12-21, and 24-27 do not teach or define any new limitation above claims 1-7 and therefore are rejected for similar reasons.

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4. Claims 11, and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach neither singly nor in combination the claimed feature of "displaying the log of background processes that execute during a telephony call".

5. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ario Etienne*, can be reached on (703) 308-7562.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The central official fax number for the group is (703) 872-9306.



Saleh Najjar

Primary Examiner / Art Unit 2157